

## REMARKS

In the Specification, the paragraph beginning on page 9, at line 2, has been amended to delete a duplicate reference number and add a new replacement reference number.

In the Figures, FIG. 2 has been amended to delete the duplicate reference number and add the new replacement reference number.

In the Claims, Claims 1, 10, 15, and 18 have been amended. Claims 4-7 have been cancelled. Claims 1-3 and 8-20 are currently pending in the application.

The Examiner rejected claim 10 under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner rejected claims 1, 2, 5, 6, 8, 11, 12, and 17-20 under 35 USC § 102(b) as being anticipated by Nagahori et al (USPN 5,896,213; hereinafter "Nagahori"). The Examiner rejected claims 1, 5, 6, 8, 11, 12, and 17-20 under 35 USC § 102(e) as being anticipated by Ravasio (WO 01/50644 A1). The Examiner rejected claims 3, 4, 7, 9, 10, and 13-16 under 35 USC § 103(a) as being unpatentable over Nagahori. These rejections are respectfully traversed and Applicant requests reconsideration of the application.

### 112 Rejection

In rejecting claim 10, the Examiner stated "the statement 'including a second fiber optic cable for use in implementing route diversity' is vague and indefinite since there is no statement claimed where in the network this cable is placed, with no clear explanation how the route becomes diversified." Later, on page 5 of the office action, the Examiner stated "it would have been

obvious ... to use protective cable-like members around the fibers for protection of the fibers in the network." Claim 10 has been amended to more clearly define the claimed subject matter. Applicant notes the amendment has not been performed to overcome prior art.

#### 102(b) and 102(e) Rejections

In order for a reference to anticipate an invention, each and every element of the claimed invention must be found in a single reference. "Moreover, it is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference." *Ex parte Levy*, 17 USPQ2d 1461, 1462 (Bd Pat App & Inter 1990). Applicant respectfully submits that Nagahori and Ravasio do not anticipate Applicant's claimed invention because Nagahori and Ravasio do not teach or disclose each and every element of the claimed invention.

Nagahori discloses an optical fiber network system. The network includes a branch office that transmits a signal over optical transmission lines to network units. A multi-channel/single-channel conversion cable is located between the branch office and the network units to connect an array optical transmitter with each network unit in a one-to-one connection.

Applicant's independent claim 1 recites in relevant part, "a branch point where the individual fibers branch out to the individual users, wherein the branch point includes a tree of 1 x 2 splitters". Independent claim 18 recites in relevant part, "...the broadcast signal is delivered to the respective user through a branch point including a tree of 1 x 2 splitters." Applicant respectfully submits that Nagahori does not anticipate Applicant's claims 1 and 18 because Nagahori does not teach a branch point that includes a tree of 1 x 2 splitters, as recited in the claims.

Furthermore, Ravasio does not teach or suggest a branch point that includes a tree of 1 x 2 splitters. Ravasio discloses a network for distributing signals to multiple users. The network utilizes an electrically terminating optical cable between a distribution unit and the electrical user apparatuses. Figures 3 through 8 illustrate various configurations for the network. Nothing in Ravasio teaches *or* suggests a branch point that includes a tree of 1 x 2 splitters.

"Claims in dependent form shall be construed to incorporate by reference all the limitations of the claim incorporated by reference into the dependent claim." 37 CFR 1.75. Therefore, claims 1, 5, 6, 8, 11, 12, and 17 include all the limitations of claim 1. Claims 19-20 include the limitations of claim 18. For at least the reason discussed above, Nagahori and Ravasio do not anticipate independent claims 1 and 18. Consequently, Nagahori and Ravasio do not anticipate dependent claims 1, 5, 6, 8, 11, 12, 17, and 19-20.

#### 103(a) Rejection

The Examiner rejected claims 3, 4, 7, 9, 10, and 13-16 under 35 USC § 103(a) as being unpatentable over Nagahori. The Manual of Patent Examining Procedure (MPEP) states the following in Section 2142:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Applicant submits that Nagahori does not render Applicant's claimed invention obvious, since the prior art reference does not teach or suggest all of the claim limitations.

The Examiner stated, with respect to claims 3 and 4, Nagahori did not explicitly teach a network "arranged as a physical bus, or as a branch point that includes a tree of 1x2 splitters." Nevertheless, the Examiner concluded that these limitations "would have been obvious at the time the invention was made to a person having ordinary skill in the art since they are well known elements in optical networking systems." The Examiner further stated the limitations in claims 7, 9, 10, and 13-16 were not explicitly taught in Nagahori, but concluded these limitations would also have been obvious at the time the invention was made to a person having ordinary skill in the art. The MPEP states, however, that it "is never appropriate to rely solely on 'common knowledge' in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based." MPEP § 2144.03. Applicant therefore submits the Examiner has failed to factually support a *prima facie* conclusion of obviousness. Applicant requests the Examiner produce the evidentiary support for his allegation regarding the obviousness of the claims rejected under 35 USC 103.

Furthermore, the MPEP states in section 2141.02 that in "determining the differences between the prior art and the claims, the question under 35 USC 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." (emphasis original). Applicant submits that claims 3, 7, 9, 10, and 13-16 are not obvious in light of Nagahori when the claims are considered in whole, including all of the limitations in independent claim 1.

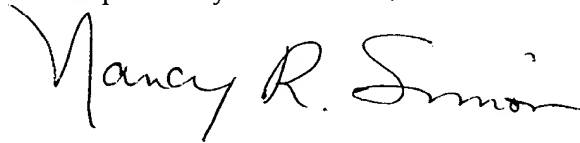
As discussed earlier, Nagahori does not teach or suggest all of the elements in independent claim 1. And Nagahori does not teach or suggest

the limitations in dependent claims 3, 7, 9, 10, and 13-16. Furthermore, the Examiner has not factually supported his obviousness rejection and provided evidentiary support for his conclusion. Applicant therefore submits claims 3, 7, 9, 10, and 13-16 are not obvious in light of Nagahori.

In light of the amendments and discussion above, Applicant believes that all claims currently remaining in the application are allowable over the prior art, and respectfully requests allowance of such claims.

Date: August 27, 2003

Respectfully submitted,

A handwritten signature in black ink that reads "Nancy R. Simon". The signature is written in a cursive, flowing style.

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### IN THE DRAWINGS

The attached sheet of drawings includes changes to FIG. 2. This sheet replaces the original sheet including FIG. 2. In Figure 2, "home network 264" and "amplifier 264" use the same reference number. The duplicate reference number has been deleted and a new replacement reference number has been added.

Attachment: Replacement Sheet  
Annotated Sheet Showing Change